

ESTTA Tracking number: **ESTTA273540**

Filing date: **03/20/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Philadelphia Ordnance, Inc.
Granted to Date of previous extension	03/21/2009
Address	222 Roesch Ave Oreland, PA 19075 UNITED STATES
Correspondence information	Philadelphia Ordnance, Inc. 222 Roesch Ave Oreland, PA 19075 UNITED STATES Philaord@aol.com Phone:215-576-0259

### Applicant Information

Application No	77559090	Publication date	01/20/2009
Opposition Filing Date	03/20/2009	Opposition Period Ends	03/21/2009
Applicant	SAEILO ENTERPRISES, INC. PO BOX 1518 ONE BLUE HILL PLAZA PEARL RIVER, NY 10965 UNITED STATES		

### Goods/Services Affected by Opposition

Class 028. First Use: 2008/01/01 First Use In Commerce: 2008/02/01 All goods and services in the class are opposed, namely: Toy guns
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### Grounds for Opposition

Genericness	Trademark Act section 23
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Attachments	Oppositor.txt ( 3 pages )(5206 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert Bower, Jr./
Name	Philadelphia Ordnance, Inc.

Date	03/20/2009
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1. The Thompson submachine gun was manufactured from 1921 to 1944 by the Auto-Ordnance Corporation of Bridgeport, Connecticut and the Auto-Ordnance Corporation of New York, New York. Over the years the Thompson submachine gun has become famous and recognizable from its use by both police and criminals, and from its widespread use in the Armed Forces of the United States during World War II up through Vietnam.

The exploits of the Thompson have been well documented and presented to the public for over 75 years through newspapers, newsreels, movies, documentaries, and television. The Thompson submachine gun is, due to its distinctive appearance one of the most recognized firearms ever made.

2. Due to the above it was inevitable that the Thompson submachine gun would become a popular toy, and in fact has been manufactured in vast quantities as a toy in numerous forms on an on-going basis for over 50 years.

The Thompson is probably one of the most copied (in terms of appearance) toy guns ever made. These toy Thompsons range from inexpensive childrens toys to highly detailed expensive museum quality toy guns.

3. A variety of toy Thompsons are documented from plastic minatures for use with toy soldiers, to museum quality metal 1/6 and 1/4 scale minatures with moving parts.

4. A variety of toy Thompsons are documented which are reduced-size childrens toys for playing war games made from plastic which are either facsimilies or close copies of the originals in appearance.

4. A variety of toy Thompsons are documented which are full sized detailed display models with moving parts which can be disassembled. These are available as inexpensive facsimilies ranging to expensive exact copies.

5. A variety of toy Thompsons are documented of exacting appearance which fire plastic pellets by means of mechanical devices incorporated into the toy.

6. Toy Thompsons are documented which are solid plastic or resin which are rough copies of the originals but which nevertheless incorporate the distinctive Thompson appearance.

7. Toy Thompsons are documented made from the cheapest materials possible - painted sheet metal, etc. which nevertheless incorporate the distinctive Thompson appearance.

8. Toy Thompsons of the "gadget" type are documented such as cigarette lighters which have the appearance of a Thompson submachine gun.

9. The fact that untold thousands of toy Thompson guns of various

designs  
have been made and sold on an on-going basis for over 50 years by an  
ever-changing  
ever-renewing variety of toy manufacturers, and that all of these toys  
have been  
advertised and/or marked "Thompson", and that all of these toys  
duplicate  
either approximately or exactly the appearance of an original Thompson  
submachine gun has rendered the word "Thompson" generic.

10. Philadelphia Ordnance has manufactured and sold museum quality  
replica  
toy guns on an on-going basis since 1986 - for well over 20 years.  
These toy guns  
have been advertised as "Thompson" and have markings similar to  
original guns  
which include the word "Thompson".

10. If Saeilo is awarded the generic word "Thompson" as a  
trademark for  
toy guns they will prevent the advertising and sale of toy Thompson  
guns which  
will cause damage to Philadelphia Ordnance by significantly reducing  
income  
from the sale of its quality toy guns.

11. In March of 1944 manufacture of the Thompson submachine gun  
ceased.  
The Auto-Ordnance Corporation discontinued all activities, machinery,  
parts and  
equipment were sold or placed in storage, but the corporation was  
maintained by  
the primary investors and is a currently valid New York chartered  
corporation known  
as the Components Corporation of America.

12. No business or corporate activity of any type - commerce, tax  
or corporate  
filings, etc. pertaining to any "Auto-Ordnance Corporation" was  
conducted  
or existed from 1944 until 1974. In 1974 a new Auto-Ordnance  
Corporation  
was registered in New York by the Numrich Arms Corporation of West  
Hurley,  
New York. This new corporation claimed it was the "original"  
Auto-Ordnance  
Corporation of Thompson submachine gun fame to facilitate the sales of  
newly designed and manufactured firearms which had the outward  
appearance  
of the Thompson submachine gun.

13. The new Auto-Ordnance Corporation of West Hurley New York for  
years  
promoted itself as the "original" Auto-Ordnance Corporation. In 1999  
Saeilo  
purchased the West Hurley Auto-Ordnance Corporation believing in good  
faith  
that they were purchasing the original corporation which had designed  
and

manufactured the original Thompson submachine guns from 1921 to 1944.

14. Saeilo continues to claim it is the "original" Auto-Ordnance Corporation and that it has "rights" accrued from the manufacture of Thompson submachine guns as far back as 1916, but the Auto-Ordnance Corporation they aquired did not exist prior to 1974, and has no connection with the Auto-Ordnance Corporation which as indicated in paragraph #11 is now known as the Components Corporation of America.